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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,599	10/27/2003	Egbert Classen	2001P11003WOUS	3516

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EXAMINER

ADAMS, GREGORY W

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,599

Applicant(s)

CLASSEN ET AL.

Examiner

Gregory W. Adams

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-25,27-29 and 32-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-25,27-29 and 32-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 32-36 are rejected under 35 U.S.C. 102(b) as being anticipated by McManus (US 4,736,971).

With respect to claim 32, McManus discloses a support beam 13, crossbeam 20, first and second legs 28, 32, and a hydraulic cylinder 15.

With respect to claim 33, McManus discloses a crossbeam that translates.

With respect to claim 34, McManus discloses a crossbeam that pivots.

With respect to claim 35, McManus discloses a hydraulic driver 21.

With respect to claim 36, McManus discloses legs 28, 32 do not extend below goods unit as disclosed in FIG. 2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

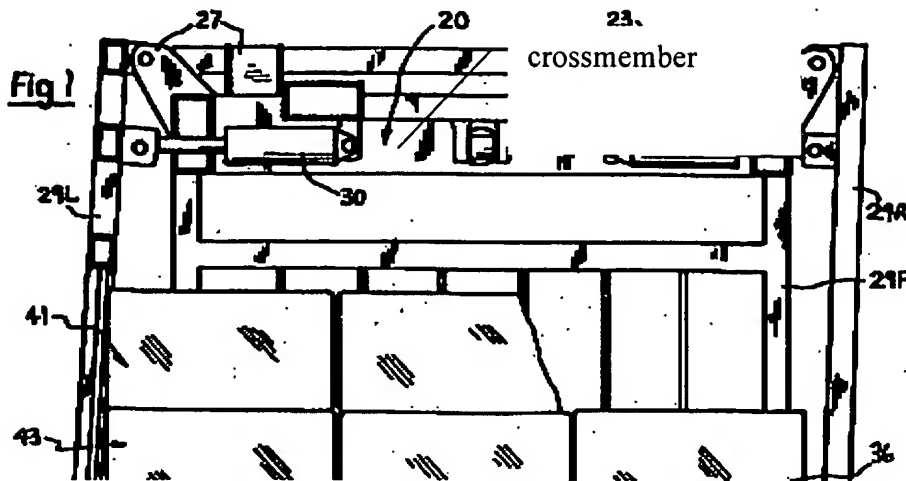
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3652

2. Claims 2, 4-17, 19-29 & 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson (US 3,788,500) (previously cited) in view of Richardson (US 5,161,934) (previously cited).

With respect to claim 19, Lemelson discloses a conveying unit 14, 15, 20, 21 [conveying in so much that Lemelson's gripping units have rollers that allow them to convey along rails 14, 15, 20, 21 and rails 20, 21 extend in to a transfer compartment (FIG. 4: 25)], a conveying unit having two gripping units 16 (C1/L38-39) disposed one after another [does not equate to two gripping units as part of a whole, i.e. that one gripping follows another in successive fashion], crossmember [e.g. the crossmember at the top of each gripping unit] and lifting units that lifts goods off a base in a vertical direction [Lemelson's fork lifts raise goods in a vertical direction].

Lemelson does not disclose a gripping unit comprising legs and does not disclose a guide and support unit that can move a gripping unit legs relative to a cross member transverse to a loading/unloading direction and vertical direction. Richardson discloses two legs 29L/R extending down from a crossbeam 20 and a gripping unit being mounted via said at least one guide and support unit 20, 30 on said crossmember (see below), said crossmember and said at least one guide and support unit 30 cooperating together to permit movement of said gripping units relative to said crossmember in a transverse direction that is perpendicular with respect to both the loading and unloading direction and the vertical direction, e.g. side to side. It is noted that broadly defined Richardson discloses relative movement such that movement of legs 29L-R towards and away from boxes 43 for clamping purposes.



Richardson discloses two legs 29L/R extending down from a crossbeam 20 such that pallet loads can be separated either in part as in rearranging layers of cases on pallets. C1/L15-19. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the gripping unit of Lemelson to include two legs, as per the teachings of Richardson, for rearranging layers of cases.

With respect to claim 20, Lemelson discloses a conveying unit in loading region 14, rollers 29 and support conveying unit 14, 15.

With respect to claim 21, Lemelson discloses a gripping unit pick-up region (indicated generally as G in FIG. 6) and a guide and support unit 16 above said pick-up region.

With respect to claim 22, Lemelson discloses an apparatus comprising a gripping unit pick-up region G, guide and support unit 15 mounted to overhead structure. It is noted that mounting a guiding and support unit to overhead structure, overhead structure comprises building ceilings comprise, frame, & cross members. Therefore, it

Art Unit: 3652

would have been obvious to mount an apparatus to a ceiling, as taught by Lemelson, such that a guiding unit may extend over a loading region.

With respect to claim 23, Lemelson discloses gripping unit 16 mounted on guide and support unit 15.

With respect to claim 24, Lemelson discloses a guide and support unit 15 end points in direction of transport compartment 22 with a guide and support unit support element 12S, 21 on end 21.

With respect to claims 25, 27, Lemelson discloses gripping unit 16 having one or two degrees of freedom. It is noted that Lemelson discloses a first degree being that in a vertical (i.e. raising) direction, and a second degree being that in a horizontal direction, i.e. into a loading compartment.

With respect to claim 28, Lemelson discloses a conveying unit 14 with rollers 29.

With respect to claim 29, Lemelson discloses a commercial motor vehicle 12.

With respect to claim 39, Lemelson discloses a method of moving goods comprising a conveying unit 16 inserted into a transport compartment 25 and conveying goods L, P, a conveying unit 14-16 having a gripping unit 16 and a lifting unit 16 wherein a gripping unit 16 has one gripping unit 16 disposed after another gripping unit 16. It is noted that Lemelson discloses two gripping units to automatically load and/or unload a transport compartment by traveling adjacent thereto or into a storage compartment. Lemelson Abstract. Lemelson does not disclose two legs. Richardson discloses two legs 29L/R extending down from a crossbeam 20 such that pallet loads can be separated either in part as in rearranging layers of cases on pallets. C1/L15-19.

Art Unit: 3652

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Lemelson to include two legs, as per the teachings of Richardson, for rearranging layers of cases.

3. Claims 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over McManus (US 4,736,971) in view of Lemelson. McManus discloses the claimed invention, but does not disclose cross members connected to a fixed structure.

Lemelson discloses fixturing a support beam to an overhead structure, but does not disclose fixturing to a ceiling. It is noted that mounting an overhead rail to overhead structure, overhead structure comprises building ceilings comprise, frame, & cross members. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to mount the support beam of the McManus to an overhead structure such as ceilings or beams mounted from a ceiling, to provide for an open floor space.

Response to Arguments

Applicant's arguments filed September 14, 2006 have been fully considered but they are not persuasive.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections. The cited prior art discloses an apparatus for loading for at least the reason that Lemelson discloses a conveying unit, lifting unit, and two gripping units. Richardson then modifies

Art Unit: 3652

Lemelson's apparatus by adding legs that move relative to a crossmember, e.g. in and out from a stack.

Broadly construed Applicants claims suffer from functional limitations which lend themselves to broad interpretations. For example a guide and support unit could be a cylinder, linkage, telescoping beam or rail and rollers, none of which appear in Applicants claims. Also, Applicant merely claims the functionality of loading into a transport compartment or permitting relative motion. The cited prior art discloses these and other functions.

With respect to claims 32-38, McManus discloses a support beam 13, crossbeam 20, first and second legs 28, 32, and a hydraulic cylinder 15. Further, Applicant is respectfully reminded that claim language consisting of functional language and/or intended use phrasing is given little, if any, patentable weight as the apparatus must merely be capable of functioning, or being used, as claimed. See MPEP 2112.02, 2114. Here, McManus apparatus is capable of loading and unloading goods from a transport compartment as it is directed to material handling and includes structure that can pick up objects (clamps 32) as well as structure that can traverse longitudinally (rail 13) and transversally (cylinder 21).

Moreover, the recitation has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand

Art Unit: 3652

alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

JP 61-136828 A to Maekawa and FR 2587692 A to Barolo disclose a conveying unit having two gripping units, each having two legs and a guide support unit that connects a gripping unit to a crossmember.

US 3,993,204 to Hummel discloses a conveying unit that extends/retracts, e.g. telescopes having two gripping units disposed one after another.

US 2,234,287 to Sluyter discloses a conveying unit that extends into a rail car transport compartment and then is semi-permanently affixed and then further provides gripping units that convey along said conveying unit.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3652

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th., 8:00-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GWA



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